

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOSE AMAYA AND MARIA ELENA
MONTANO

No. C 10-01926 WHA

Plaintiffs,

v.

**ORDER RE DEFENDANT'S
MOTION TO DISMISS**

GMAC MORTGAGE, LLC, F/K/A GMAC
MORTGAGE CORPORATION,

Defendant.

Plaintiffs, proceeding *pro se*, have filed claims in this action relating to a mortgage loan that they obtained. Defendant GMAC filed a motion to dismiss and plaintiffs did not file a timely opposition. Plaintiffs were ordered to show cause for their failure to respond or alternatively to file a statement of nonopposition to the motion to dismiss.

Plaintiffs have now filed a response stating that because they have a limited understanding of English, they are being assisted in this action by their “next best friend” John Wilson. Plaintiffs state that they did not respond to defendant’s motion to dismiss because defendant reneged on an oral promise by its counsel to Mr. Wilson to copy him on all pleadings and papers. They state that without Mr. Wilson’s assistance, they did not understand the due date for their opposition to defendant’s motion (Br. at 3–4). Mr. Wilson has submitted a sworn declaration that such an oral promise was made (Wilson Decl. at 8–9). Defendant has also submitted a sworn declaration from its counsel denying that it agreed to provide pleadings or documents to him on a continuing basis (Beckmann Decl. at 2).


1 Because plaintiffs are proceeding *pro se*, they will be given another chance to file an
2 opposition to defendant's motion to dismiss. Plaintiffs' opposition shall be due no later than
3 **NOON ON JULY 29, 2010.** Defendant's reply shall be due no later than **NOON ON AUGUST 5,**
4 **2010.** The motion to dismiss shall be decided on the papers. If plaintiffs again fail to file a
5 timely opposition, this matter will likely be dismissed for lack of prosecution.

6 Mr. Wilson is not an attorney licensed to practice law in California or this Court and
7 therefore cannot represent plaintiffs. Nor is he a party to this action. Nevertheless, his name
8 and address are set forth in the upper left-hand corner of the first page of plaintiffs' submission
9 with the title "Private Attorney General, United States House of Representatives." Pursuant to
10 Civil Local Rule 3-4, this is where the name, address, and other identifying information of
11 plaintiffs or their counsel should appear. Mr. Wilson is not a member of the United States
12 House of Representatives. Nor is he a private attorney general for purposes of this lawsuit. It is
13 improper for his name to appear in the upper left-hand corner of plaintiffs' submissions or for
14 him to attempt to represent plaintiffs in this matter.

15 Defendant is not obligated to serve documents in this matter to Mr. Wilson because he is
16 neither a party nor an attorney. If plaintiffs require assistance translating the written
17 submissions in this action, it is their responsibility to seek out help in a timely fashion and meet
18 all deadlines.

19
20 **IT IS SO ORDERED.**

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22 Dated: July 14, 2010.

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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE